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<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/821,124	OZBAL, CAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charles D. Garber	2856	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04/10/2006.
2. ☒ The allowed claim(s) is/are 1,3,4,6-27,29 and 30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

  
 Charles D. Garber  
 Primary Examiner  
 Art Unit: 2856

***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance:

Regarding claim 21, the closest prior art of Averette (US Patent 4,624,148) discloses an automatic fluid injector including a vial 91 defining a volume for holding a sample, the volume closed by a "septum"; an outer tube 65 having a proximal end and a distal end, the proximal end shaped in a bevel (figure 5) which will permit piercing the septum; and an inner tube 66 having an end region axially movable within the outer tube between a piercing position (figure 4), wherein an end of the inner tube in the end region is retracted from the proximal end of the outer tube, and a transmission position (figure 5), wherein the end of the inner tube extends axially beyond the proximal end of the outer tube; wherein the outer tube and the inner tube form a tube assembly; and wherein at least one of the tube assembly and the container can be moved to cause the outer tube to pierce the seal and, after the seal is pierced, the inner tube can be used in the transmission position to permit fluid transfer with respect to the volume (abstract).

Averette does not disclose the inner tube is resilient.

De Graaf et al. (US Patent 6,146,594) discloses a syring sampling device teaching "preferred replaceable needle assemblies have "two-stage needles" in which an inner member of highly flexible or "superelastic" material such as binary nickel-titanium alloy is joined to a sheath of more rigid material. This allows for sufficient rigidity that precise placement of the needle tip is facilitated, but allows some flexibility at or near the needle tip in order to minimize damage to the tip and ease directing the needle tips into very narrow channels."

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Nevertheless, De Graaf and other related prior art does not further disclose or suggest "flexing a portion of the inner tube to place the inner tube in a piercing position wherein an end of the inner tube is retracted from the proximal end of the outer tube" as in the instant invention.

The other independent claim 1 is allowed for the substantially the same reason as claim 21.

Claims 3, 4, 6-20, 22-27, 29 and 30 depending from allowed claims 1 or 21 are allowed for the same reason.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles D. Garber whose telephone number is (571) 272-2194. The examiner can normally be reached on 8:00 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles D. Garber  
Primary Examiner  
Art Unit 2856



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